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...cy Power Station, 191 Wunotoo Road • Sparks, Nevada 89434-6609 • 702.689.4674 • Fax 702.689.3543

Control: HWD

Ms Elizabeth Cotsworth
Acting Director of Solid Waste
U.S. Environmental Protection Agency
Mail Code 5301 W
401 M Street S.W.
Washington D.C. 20460

July 14, 1998

Subject: Request for Qualifying Use Determination for the Pinon Pine Integrated Coal Gasification Project

Dear Ms Cotsworth:

Sierra Pacific Power Company is requesting that EPA Headquarters allow Sierra to include the "recycling" exemption provided in 40 CFR Part 261.4, for combining the coking by-product described in "Attachment A" with the coal feedstock described in "Attachment B", for use as a fuel in the Integrated Coal Gasification (IGCC) project. The IGCC project, know as Pinon Project, is part of the Clean Coal Technology program sponsored by the US Department of Energy.

EPA has recognized the need to further pollution prevention by encouraging alternatives to land disposal of by-products from manufacturing. In EPA's final rule promulgated on August 18, 1992 (FR Vol. 57 No 160), EPA reinforced the need to recycle by exempting coking by-products from the final rule, and thereby minimizing the potential impact to ground water.

Sierra is proposing to take delivery of the coking by-product at the Tracy Station, providing EPA makes a favorable determination that the fuel mixture being proposed in this case is not a hazardous material as provided under this rule. Sierra also requests that EPA provide an additional determination that the combustion of this fuel does not constitute combustion of a hazardous material under 40 CFR Parts 61 and 63 or any other applicable provisions of the Clean Air Act (as amended in 1990).

For the reasons described below, we urge you to issue a favorable determination for the Pinon Project.

- The use of this by-product as a fuel is consistent with the exemption under 40 CFR Part 261.4.
- The use of the fuel is consistent with pollution prevention.
- Analysis of the fuel for metals and organic compounds is consistent with that of the other coal.

OSW-9858

received
JUL 17 1998



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. Frank Luchetti
Director, Environmental Services
Sierra Pacific Power Company
Tracy Power Station
191 Wunotoo Road
Sparks, Nevada 89434-6609

Dear Mr. Luchetti:

Thank you for your letter of July 14, 1998, in which you asked EPA to extend a recycling exclusion to a coal gasifier you operate in Nevada. I apologize for the delay in responding to your inquiry. Specifically, you wanted to know if the exclusion for coal tar wastes recycled to coke ovens, tar refiners, and tar recovery processes under 40 CFR 261.4(a)(10) would apply to your proposed mixing of coal tar wastes with coal you process in your gasifier.

After much consideration, the Agency has concluded that the §261.4(a)(10) exclusion does not apply to your facility. The exclusion was written specifically for recycling coke by-products wastes in coke ovens, tar refiners, and tar recovery processes in the iron and steel industry. While we realize that the gasifier you describe in your literature achieves the pyrolysis of coal much like a coke oven, we must conclude that the materials themselves, the intended uses of materials and the units they are processed in differ enough that we cannot interpret the coke by-products regulatory exclusion to apply to the coal gasifier unit. If you still want your gasifier to accept these materials, you must first discuss with your authorized state or EPA Regional office whether the gasifier is a hazardous waste treatment, storage, and disposal (TSD) facility required to have a RCRA permit or whether the unit is an exempt recycling unit. Even if the State or EPA Regional office determines the unit is an exempt recycling unit, you may need a RCRA permit for storage of hazardous wastes before they are processed in the gasifier.

The incoming materials are subject to RCRA regulation if the secondary materials are either listed hazardous waste (e.g., K087) or exhibit a hazardous waste characteristic. In general, recycling of hazardous waste by burning them for energy recovery is regulated under RCRA. In addition, the syngas would be considered a

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hazardous waste-derived fuel. However, you should be aware that the Agency recently promulgated a comparable fuels exclusion (See 63 FR 33782; June 19, 1998). The comparable fuels exclusion at 40 CFR 261.4(a)(16) is an exclusion from the hazardous waste regulations for hazardous waste-derived fuels that meet certain specifications. You may wish to examine your fuel inputs and your syngas output to see if they meet the criteria for this exclusion. You may also wish to explore with the authorized State or EPA Regional Office the possibility of obtaining a treatability study exemption under §261.4(f) or a research, development, and demonstration permit under §270.65.

Also, you should be aware that the Agency is reexamining how the RCRA regulations should apply to gasifiers that use hazardous waste in light of the recently promulgated regulations on petroleum wastes (See 63 FR 42110; August 6, 1998).

Finally, if you feel the Agency's regulations should allow for the process you propose, you may petition the Agency for a regulatory change under 40 CFR 260.20 or 260.22. Please be advised that due to various Congressional and court-mandated priorities, the Agency might not be able to act on such a petition within a short time frame.

Thank you for your letter and accompanying material. If you have any questions on this subject, please contact Ron Josephson of my staff at (703)308-0442.

Sincerely,



Elizabeth Cotsworth, Acting Director
Office of Solid Waste



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